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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,790	10/17/2003	Roy E. Hook	WEN 208	'9866
2555	7590	11/30/2005		
KREMBLAS, FOSTER, PHILLIPS & POLLICK 7632 SLATE RIDGE BOULEVARD REYNOLDSBURG, OH 43068				
			EXAMINER OKEZIE, ESTHER O	
			ART UNIT 3652	PAPER NUMBER

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/687,790	<b>Applicant(s)</b> HOOK, ROY E.	
	<b>Examiner</b> Esther O. Okezie	<b>Art Unit</b> 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3-13 and 15-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-13 and 15-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### *Response to Amendment*

The amendment filed on 9/08/05 and the remarks presented therewith have carefully considered. Applicant's arguments with respect to claims 1,3-13,15-24 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1,3-13, 15,18-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Voelker.
2. Regarding claim 1, Voelker discloses a receptacle capable of lifting from a support surface and transporting a row of workpieces positioned on the a surface to another location, the tool comprising:
  - a. an elongated, rigid, workpiece-receiving panel (1) having a length greater than its width, the panel having a length to width aspect ration of at least the 3:1 (As seen in figure 1, based on a scaled diameter of about 1 inch, at least a 3 to 1 inch aspect ratio is clearly shown), the workpiece-receiving panel having at least one exposed, longitudinal, open edge (1), the panel being flat

enough and the edge being open and unobstructed enough that the panel is adapted to permit the panel to be slid along the surface and under the workpieces for slidably receiving a row of multiple workpieces, the workpiece receiving panel in an operable orientation of the tool, contoured to have an upwardly concave surface for containing liquid on the panel.

- b. an end support (2) extending transversely from the panel; and
  - c. an elongated, hand-grippable rigid handle (4) attached to the end support and extending, in an operable orientation of the tool, above the panel.
2. Regarding claim 3, a panel with longitudinal bends (2) to form concave contour.
3. Regarding claim 4, an end support including a liquid impervious wall (2) extending upwardly from the panel for containing liquid on the panel and preventing spillage from end of the panel.
4. Regarding claim 5, the panel has parallel, laterally opposite, linear, open edges (1) adapted to permit either edge of the panel to be slid along the surface and under the workpieces for engaging the workpiece-supporting surface.
1. Regarding claim 6, a handle (4) that extends substantially the entire length of the panel.
2. Regarding claim 7, a second end support (2) extending also extending, in an operable orientation of the tool, upwardly from the panel, wherein both end supports includes a liquid impervious wall extending upwardly adjacent the panel for containing liquid on the panel and preventing spillage from ends of the panel.

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3. Regarding claim 8, a handle (4) extending between and is attached at its opposite ends to the end supports.
4. Regarding claim 9, a workpiece-receiving panel (1), in an operable orientation of the tool, is contoured to have an upwardly concave surface for containing liquid on the panel.
5. Regarding claim 10, a panel with longitudinal bends (a) to form the concave contour.
6. Regarding claim 11, a panel having parallel, laterally opposite, linear edges for engaging the workpiece-supporting surface (figs 1-3).
7. Regarding claim 12, a handle (4) is parallel to the panel.
8. Regarding claim 13, the panel, end supports, and handle are formed integrally or joined together (figs 1-3).
9. Regarding claim 15, the workpiece -receiving panel has parallel, laterally opposite, linear edges for engaging the workpiece supporting surface, a second end support also extends transversely from the panel, wherein both end supports include a liquid impervious wall extending upwardly from the panel for containing liquid on the panel and preventing spillage from ends of the panel, and wherein the handle is attached at opposite ends to the end supports (see figs 1-3).
10. Regarding claims 18-21, it is noted that although Voelker does not include dimensions the receptacle, it would be at least 50% to 80% the width of some grill cooking surfaces or substantially the same width of some grill cooking surfaces. Consequently, the receptacle would be 50% of the width of a grill cooking surface that is

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twice the size of the receptacle, 80% of the width of a grill cooking surface that is 20% greater in width than the receptacle, and 100% the width of a grill cooking surface that is the same width of the receptacle.

5. Regarding claim 22, Voelker discloses a receptacle capable of lifting from a support surface and transporting a row of workpieces positioned on the a surface to another location, the tool comprising:

- a. an elongated, rigid, workpiece-receiving panel (1) having an aspect ratio of at least 3:1, the workpiece-receiving panel having at least one exposed, longitudinal, unobstructed edge (1), adapted to permit the panel to be slid along the surface and under the workpieces for slidably receiving a row of multiple workpieces, the workpiece-receiving panel, in an operable orientation of the tool, being contoured to have an upwardly concave surface for containing liquid on the panel;
- b. an end support (2) extending transversely from the panel; and
- c. an elongated, hand-grippable rigid handle (4) attached to the end support and extending, in an operable orientation of the tool, above the panel.

6. Regarding claim 23, the panel has laterally opposite, linear, exposed, longitudinal, unobstructed edges (1) adapted to permit either edge of the panel to be slid along the surface and under the workpieces for slidably receiving a row of multiple workpieces.

7. Regarding claim 24, the laterally opposite edges (1) are parallel.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Voelker. As seen in figure 1, based on a scaled diameter of about 1 inch, at least a 3 to 1 inch aspect ratio of the panel (1) is clearly shown. Voelker does not disclose the dimensions of the receptacle wherein the panel has a length to width aspect ratio of at least 4:1 or 5:1. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to construct the grain scoop of Voelker wherein the panel of the scoop was long enough to receive a large amount of grain for transport so that the user would be able to transfer an optimum amount of grain at one time. It would have been an obvious matter of design choice to construct the panel with an aspect ration of 3:1, 4:1, or 5:1 since such a modification would have involved a mere change in the size of the components. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

***Response to Arguments***

Applicant's arguments with respect to claims 1, 3-13, 15-24 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 5031948, US 2301300.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Esther O. Okezie whose telephone number is (571) 272-8108. The examiner can normally be reached on Mon-Thurs 8-6:30.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EOO 11/20/05

 11/28/05  
DEAN J. KRANCER  
PRIMARY EXAMINER